



PREFORECLOSURE SALES PROGRAM

The Preforeclosure Sale Program allows a mortgagor in default to sell his or her home and use the sales proceeds to satisfy the mortgage debt, even if the proceeds are less than the amount owed. Ref: Mortgagee Letters 2001-07, 2000-05 and 1994-45.

FACTS

- Outright sale of mortgaged property to a third party and must be an “arms length” transaction.
- HUD will pay up to \$1,000 incentive to the mortgagor if closed within 90 days from the date of application; thereafter, the incentive is reduced to \$750.
- HUD will pay an additional amount up to \$1,000 for the discharge of junior liens but the mortgagor’s incentive must be used first.
- HUD allows all reasonable cost of the sale including up to 6% sales commission, local/state transfer tax stamp and other customary closing cost.
- The appraised value must be at least 63% of the outstanding mortgage. Mortgage indebtedness = principal, interest and Partial Claim amount (if applicable).
- Net sales proceeds must be at least 82% of the property’s “as is” appraised value, defined as selling price minus sales commission and consideration paid to seller, amount to discharge any lien (not to exceed \$1,000), and customary sellers closing costs.
- **Under no circumstance** should the mortgagor be encouraged to default on their mortgage for the purpose of participating in the Preforeclosure Sale Program.

ELIGIBILITY

- The property must be owner-occupied, no “walk-a ways” or investment properties. Exceptions: when it is verifiable that the need to vacate was related to the cause of default (job loss, transfer, divorce, death), and the subject property was not purchased as rental investment, or used as a rental for more than 12 months.
- The mortgagor must be 31 days delinquent or more at the time of the Preforeclosure Sale closing.
- The mortgagor must provide documentation of a reduction in income or an increase in living expense, and documentation that verifies the mortgagors need to vacate the property.

PROCEDURES

(1) Mortgagors who wish to participate in the Preforeclosure Sale Program must submit an *Application to Participate* HUD-90036 along with the financial information required by mortgagees.

(2) The mortgagee must obtain a standard FHA appraisal from an appraiser who does not share any interest with the mortgagor or mortgagor’s agent. The appraisal must contain both “As Is” and “As Repaired” values for the property, and will be valid for six months.

(3) Prior to execution of the *Approval to Participate*, the mortgagee must obtain a title search to verify that the title is not impaired with un-resolvable title problems or junior liens that cannot be discharged as allowed by HUD.

(4) The mortgagee will determine the mortgagors' eligibility for the PFS procedure. (A) The "As Is" appraised value must be 63% of the present unpaid principle balance and accrued interest (plus if appropriate the partial claim amount) (B) Must have marketable title.

(5) When an application is accepted an *Approval to Participate* form is used. The date of this form becomes the starting date of the PFS participation. The *Approval to Participate* form must include the date by which a signed contract for sale must be obtained and minimum acceptable net sales price.

- The mortgagor agrees to show good faith in attempting to market and sell the property.
- The mortgagor must perform all normal property maintenance and repairs until closing of the Preforeclosure Sale.
- The mortgagor must list the property with a licensed real estate broker, unrelated to the mortgagor. The listing agreement must include a specific cancellation clause in the event the terms of the sale are not acceptable to HUD.

(6) The mortgagee delays foreclosure to allow pursuit of the Preforeclosure Sale.

(7) The Preforeclosure Sale period shall be three months beginning upon mortgagee approval (automatically extended two months for mortgagees in Tier 1).

(8) The mortgagee should review marketing efforts with the mortgagor on a monthly basis. After 90 days without a scheduled closing, the mortgagee must discuss the likelihood of a sale with the real estate broker and make a determination to either end the Preforeclosure Sale period or extend it for an additional 30 days if a sale is likely.

(9) The sale closing must occur within six months, eight months if mortgagee is in Tier 1, from the date the mortgagee notified the mortgagor in writing of approval to participate in the Preforeclosure Sale Program.

If you have any question you may contact NSC at:

National Servicing Center

www.hud.gov/offices/hsg/sfh/nsc/nschome.cfm

E-mail: hsg-lossmit@hud.gov

1-888-297-8685

Frequently Asked Questions:

<http://www.hud.gov/offices/hsg/sfh/nsc/faqnsetc.cfm>

PFS Forms: <http://www.hud.gov/offices/hsg/sfh/nsc/lmmltrs.cfm>